Remarks

The Examiner's Office action mailed March 22, 2007, which rejected pending claim 1, has been reviewed, and certain amendments have been made to the application. In view of the following amendments and/or remarks, Applicant respectfully submits that the application is in condition for allowance.

The Examiner rejected claim 1 under 35 U.S.C. § 112, second paragraph. The Examiner indicated the phrase "configured to" is vague and indefinite since it only implies what the corresponding element is capable of doing, and, consequently, it is not clear if the corresponding functionality is performed. Applicant notes the phrase "configured to" has long been accepted by the Federal Circuit and the USPTO MPEP. See, for example, *Acumed LLC v. Stryker Corp.*, 82 USPQ2d 1481 (Fed. Cir. 2007); *Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, 82 USPQ2d 1687 (Fed. Cir. 2007); *Boston Scientific Scimed Inc. v. Medtronic Vascular Inc.*, 83 USPQ2d 1669 (Fed. Cir. 2007). While adapted to, adapted for, wherein, and whereby clauses are specifically mentioned in the MPEP because they "may raise a question as to the limiting effect of the language in the claim", thereby requiring further examination by the Examiner, "configured to" is not. See, for example, MPEP 2106 and 2111.04. However, the determination of whether each of these clauses is a limitation in a claim depends on the specific facts of the case. MPEP 2106 and 2111.04. As used herein, "configured to" does not indicate statements of intended use or field of use, nor are the claims directed to multiple statutory categories of invention. Should the Examiner require more information from Applicant on this issue, Applicant would be happy to provide it.

The Examiner rejected claim 1 as anticipated by U.S. Patent App. Pub. No 2001/0042040, filed by Keith. Applicant cancelled claim 1 and has filed new claims 2-33. No new matter has been added.

In general, prior systems performed trades based on serially processed trade data. See Application, paragraph 57. Multiple requests could not be processed serially in real time. Therefore, the prior system could not process and respond to later-received messages. The prior system's responses are not generated in the current real time, which may cause a trader to execute a trade based on old or bad information. See Application, paragraph 58.

Keith discloses a system for routing orders, which processes orders according to market methodologies. The system includes umpire traffic possessing in which unsolicited traffic is sent

to order rooms. If the traffic is watched instrument traffic, the it also is forwarded to an order room. The watched instrument traffic keeps the order rooms snapshot of the market in an instrument up to date. The snapshot may be used by the order room to determine when market conditions are right for triggering actions such as linked order executions. See Keith, paragraph 445. Keith does not indicate what the snapshot is or how it is otherwise obtained. No further information about the "snapshot" is disclosed.

Applicant contends that neither Keith nor any other references of record disclose, teach, or suggest all of the limitations of the present claims. For example, claim 2 is directed to a method for trading between a trading exchange and a trading system. Claim 2 includes receiving a plurality of second messages at the trading system while processing a first message, the plurality of second messages each comprising order price change information, and setting an update flag upon receiving a first one of the plurality of second messages while processing the first message, which is not disclosed, taught, or suggested by Keith. Keith also does not disclose, teach, or suggest upon at least approximately completing processing the first message, determining if the update flag is set and, if set, skipping and not processing each order price change information of the plurality of second messages at the trading system and, if set, transmitting a third message from the trading system requesting current market information from the exchange system. Keith also does not disclose, teach, or suggest upon at least approximately completing processing the first message and after determining if the update flag is set, receiving a fourth message at the trading system comprising the current market information.

Regarding claim 11, Keith does not disclose, teach, or suggest receiving at least one second message at the trading system while processing a first message, the at least one second message comprising at least one order price change information. Keith also does not disclose, teach, or suggest upon at least approximately completing processing the first message, skipping and not processing the at least one order price change information of the at least one second message at the trading system and transmitting a third message from the trading system requesting current market information from the exchange system.

Regarding claim 16, Keith does not disclose, teach, or suggest receiving a plurality of other electronic messages from the trading exchange at the trading system while processing a first electronic message. Keith also does not disclose, teach, or suggest upon at least approximately completing processing the first electronic message, skipping, and not processing,

a plurality of the received messages and processing a most recently received message from the plurality of received messages at the trading system; and

Regarding claim 24, Keith does not disclose, teach, or suggest receiving a plurality of electronic messages from the trading exchange at the trading system while processing the order and upon at least approximately completing processing the order, skipping, and not processing, a first plurality of the received messages and processing a most recently received message from the plurality of received messages at the trading system.

Regarding claim 24, Keith does not disclose, teach, or suggest a message processor to receive a plurality of second messages while processing a first message, each second message comprising order price change information, to determine if an update flag is set, and, if set, not process each order price change information of the plurality of second messages and transmit a third message requesting current market information from the trading exchange. Keith does not disclose, teach, or suggest a snapshot trade manager to monitor the message processor and to set the update flag upon the message processor receiving a first one of the plurality of second messages while processing the first message.

For the reasons above, the independent claims are believed patentable. Because the dependent claims depend directly or indirectly from the independent claims and include all of the limitations of the base claims, which are believed to be patentable, these claims also are believed to be allowable.

Further, all reasons for patentability of the independent and dependent claims have not necessarily been discussed herein. The lack of a discussion of additional patentable limitations of the independent and dependent claims should not be construed to mean that there are not additional patentable limitations in those claims. No implication or construction should be made therefore.

Applicant has no further remarks with regard to any references cited by the Examiner and made of record, whether or not acted upon by the Examiner in the action's rejections, even if specifically identified in the action or any other paper or written or verbal communication. No implication or construction should be drawn about any review of the same by Applicant or Applicant's attorney.

Based on the foregoing, it is submitted that the Applicant's invention as defined by the claims is patentable over the references of record. Issuance of a Notice of Allowance is solicited.

Applicant's attorney welcomes the opportunity to discuss the case with the Examiner in the event that there are any questions or comments regarding the response or the application.

This is intended to be a complete response to the Examiner's Office action mailed on March 22, 2007.

Respectfully Submitted,

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